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January 3, 2015

The Honorable Joseph F. Bianco, United States District Judge
The Honorable Steven I. Locke, United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Via CM/ECF

Re: Ponder v. Ally Financial Inc., et al; 2:14-cv-07026-JFB-SIL

**Plaintiff's Letter-Motion to Compel Rule 7.1 Disclosure Statements of
Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC.,
SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP**

May It Please The Court:

Plaintiff via this letter-motion filed under Local Civil Rule 7.1(d) respectfully moves this Court for an order to compel compliance with Rule 7.1 of the Federal Rules of Civil Procedure by Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP, who have appeared in this action.

Issue presented. Whether nongovernmental corporate party Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP, who have appeared in this action, are required to file Rule 7.1 Disclosure Statements when they plan to later file a Rule 12(b) motion to dismiss in this action.

Rules. Rule 7.1(a) of the Federal Rules of Civil Procedure provides as follows:

A nongovernmental corporate party must file 2 copies of a disclosure statement that: (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or (2) states that there is no such corporation.

Rule 7.1(b) of the Federal Rules of Civil Procedure provides as follows:

A party must: (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and (2) promptly file a supplemental statement if any required information changes.

Facts. On December 18, 2014, Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP made their first appearances herein by their attorney of record, George C. Fontana, Jr., Esq. of the law firm SIMMONS JANNACE DELUCA, LLP. See Dkt. 11. Also, on December 18, 2014, Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP filed a letter motion for leave to file a motion to dismiss to all defendants and that the briefing schedule include all defendants. See Dkt. 10. On December 23, 2014, Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP filed a letter motion for extension of time to file defendants' motion to dismiss. See Dkt. 13. Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP failed to file their Rule 7.1 Disclosure Statements with their first appearances or motions, or at anytime thereafter. On January 1, 2015, Plaintiff requested said defendants' Rule 7.1 Disclosure Statements by letter that was faxed, emailed, and mailed to their attorney of record, Mr. Fontana. See Exhibit A. Also, on January 1, 2015, Plaintiff filed a Notice of Deficiency Re: Rule 7.1 Corporate Disclosure Statements. See Dkt. 25. Despite their obligations under the Federal Rules of Civil Procedure, Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP have failed to comply with one of the most basic procedural rules: Rule 7.1 of the Federal Rules of Civil Procedure.

Argument. Defendant ALLY FINANCIAL INC. is a nongovernmental corporate party that has appeared in this action. See Exhibit B. Defendant PATRICK K. WILLIS COMPANY, INC. is a nongovernmental corporate party that has appeared in this action. See Exhibit C. Defendant SIMMONS JANNACE, LLP and SIMMONS JANNACE DELUCA, LLP are nongovernmental corporate parties that have appeared in this action. See Exhibit D. Further, said defendants as mentioned heretofore, have filed motions for leave of court and extensions of time in this court. Thus, having filed appearances and motions in this action, Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP are obligated under Rule 7.1 to file corporate disclosure statements. Their joint plan to file a motion to dismiss does not exempt them from compliance with Rule 7.1.

Conclusion. Defendants ALLY FINANCIAL INC., PATRICK K. WILLIS COMPANY, INC., SIMMONS JANNACE, LLP, and SIMMONS JANNACE DELUCA, LLP are required to file Rule 7.1 Disclosure Statements. Thus, Plaintiff requests that this Court compel them to do so.

Sincerely,

s/ Brian L. Ponder

BRIAN L. PONDER, ESQ. (BP0696)

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cc: All parties via their attorneys of record via CM/ECF

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that a true and correct copy of the foregoing document has been served upon all parties and their attorneys of record via CM/ECF.

Dated: New York, New York
January 3, 2015

By: s/ Brian L. Ponder
BRIAN L. PONDER, ESQ. (BP0696)